

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LUCKY DOGS LLC, et al.,

No. C 10-03381 CRB

Plaintiffs,

**ORDER GRANTING MOTION TO
DISMISS AND DISMISSING COUNT
FIVE**

v.

CITY OF SANTA ROSA, et al.,

Defendants.

Count Five of Plaintiffs' First Amended Complaint asks the Court to declare whether the City of Napa or the City of Santa Rosa is owed business tax on the two apartments at issue in this case. See dkt. 26 ¶¶ 35-47. As the Court held from the bench at the motion hearing today, the Court lacks jurisdiction to make such a determination under the Tax Injunction Act, 28 U.S.C. § 1341. Accordingly, the City of Napa's Motion to Dismiss, dkt. 33, is GRANTED. For the same reason, Count Five is DISMISSED as to the remaining defendant, the City of Santa Rosa. This disposition is made without prejudice to Plaintiffs raising such a claim in the appropriate state forum.

IT IS SO ORDERED.

Dated: September 9, 2011



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE